IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5014 of 2001

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ORIENT CERLANE LTD.

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 5014 of 2001
MR MIHIR H JOSHI for Petitioners No. 1-2
MS FALGUNI M JOSHI for Petitioners No. 1-2
MR MUKESH R SHAH for Respondents No. 1-2

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 28/11/2001

ORAL JUDGEMENT

(Per : CHIEF JUSTICE MR DM DHARMADHIKARI)

#. We have heard the learned counsel for the parties.

#. The submission made on behalf of the petitioners is that so far as partial damaged goods in accidental fire are concerned, the petitioners have sold them and paid excise duty on the same. So far as remaining goods, which according to the petitioners are totally damaged, are concerned, the petitioners have made an application for remission of duty, which has not yet been decided. This application for remission has been filed by petitioners after filing of this petition. The only request made on behalf of the petitioners is that directions be issued to decide the application for remission of duty on the alleged completely damaged goods within stipulated time and till that time, no coercive steps be allowed to be taken by respondents to recover duty.

#. This prayer appears to be reasonable though it is opposed by learned counsel for the respondents. We therefore allow this petition partly and direct the respondent-authorities to take a decision on the application dated 17th August, 2001, filed by the petitioners for remission of duty on the alleged totally damaged goods, within a period of four weeks from the date of receipt of this order by the concerned authorities. Till any decision on that application is taken, the respondents shall not coercively recover the duty demanded on the said goods. We make it clear that we have not expressed any opinion on the merits of the matter. Rule is made absolute to the aforesaid extent only. No order as to costs.

(D.M.Dharmadhikari, C.J.)

(D.H.Waghela, J.)

(sunil)